

**ASSEMBLY BILL**

**No. 2664**

**Introduced by Assembly Member Houston**

February 24, 2006

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An act to amend Section 1812.85 of the Civil Code, relating to contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2664, as introduced, Houston. Health studio contracts.

Existing law requires every contract for health studio services to provide that performance of the agreed upon services will begin within 6 months after the date the contract is entered into.

This bill would instead require every contract for health studio services to provide that performance of the agreed upon services will begin upon a date set forth in the contract by the health studio.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1812.85 of the Civil Code is amended  
2     to read:  
3     1812.85. (a) Every contract for health studio services shall  
4     provide that performance of the agreed upon services will begin  
5     ~~within six months after the date the contract is entered into~~ upon  
6     *a date set forth in the contract by the health studio.* The  
7     consumer may cancel the contract and receive a pro rata refund if  
8     the health studio fails to provide the specific facilities advertised  
9     or offered in writing by the time indicated. If no time is indicated  
10    in the contract, the consumer may cancel the contract within six

1 months after the execution of the contract and shall receive a pro  
2 rata refund. If a health studio fails to meet a timeline set forth in  
3 this section, the consumer may cancel the contract at any time  
4 after the expiration of the timeline, ~~provided that~~ if, following the  
5 expiration of the timeline, the health studio does provide the  
6 advertised or agreed upon services, the consumer may cancel the  
7 contract up to 10 days after those services are provided.

8 (b) (1) Every contract for health studio services shall, in  
9 addition, contain on its face, and in close proximity to the space  
10 reserved for the signature of the buyer, a conspicuous statement  
11 in a size equal to at least 10-point boldface type, as follows:

12 “You, the buyer, may cancel this agreement at any time prior to  
13 midnight of the fifth business day of the health studio after the  
14 date of this agreement, excluding Sundays and holidays. To  
15 cancel this agreement, mail or deliver a signed and dated notice,  
16 or send a telegram which states that you, the buyer, are canceling  
17 this agreement, or words of similar effect. The notice shall be  
18 sent to,

19  
20 \_\_\_\_\_  
21 (Name of health studio operator)

22 at \_\_\_\_\_  
23 (Address of health studio operator).”  
24

25 (2) The contract for health studio services shall contain on the  
26 first page, in a type size no smaller than that generally used in the  
27 body of the document, the following: (A) the name and address  
28 of the health studio operator to which the notice of cancellation is  
29 to be mailed, and (B) the date the buyer signed the contract.

30 (3) The contract shall provide a description of the services,  
31 facilities, and hours of access to which the consumer is entitled.  
32 Any services, facilities, and hours of access that are not described  
33 in the contract shall be considered optional services, and these  
34 optional services shall be considered as separate contracts for the  
35 purposes of this title and Section 1812.83.

36 (4) Until the health studio operator has complied with this  
37 section, the buyer may cancel the contract for health studio  
38 services.

39 (5) All moneys paid pursuant to a contract for health studio  
40 services shall be refunded within 10 days after receipt of the

1 notice of cancellation, except that payment shall be made for any  
2 health studio services received prior to cancellation.

3 (c) If at any time during the term of the contract, including a  
4 transfer of the contractual obligation, the health studio eliminates  
5 or substantially reduces the scope of the facilities, such as  
6 swimming pools or tennis courts, that were described in the  
7 contract, in an advertisement relating to the specific location, or  
8 in a written offer, and available to the consumer upon execution  
9 of the contract, the consumer may cancel the contract and receive  
10 a pro rata refund. The consumer may not cancel the contract  
11 pursuant to this subdivision if the health studio, after giving  
12 reasonable notice to its members, temporarily takes facilities out  
13 of operation for reasonable repairs, modifications, substitutions,  
14 or improvements. This subdivision shall not be interpreted to  
15 give the consumer the right to cancel a contract because of  
16 changes to the type or quantity of classes or equipment offered,  
17 provided the consumer is informed in the contract that the health  
18 studio reserves the right to make changes to the type or quantity  
19 of classes or equipment offered and the changes to the type or  
20 quantity of classes or equipment offered is reasonable under the  
21 circumstances.

22 (d) (1) If a contract for health studio services requires  
23 payment of one thousand five hundred dollars (\$1,500) to two  
24 thousand dollars (\$2,000), inclusive, including initiation fees or  
25 initial membership fees, by the person receiving the services or  
26 the use of the facility, the person shall have the right to cancel the  
27 contract within 20 days after the contract is executed.

28 (2) If a contract for health studio services requires payment of  
29 two thousand one dollars (\$2,001) to two thousand five hundred  
30 dollars (\$2,500), inclusive, including initiation fees or initial  
31 membership fees, by the person receiving the services or the use  
32 of the facility, the person shall have the right to cancel the  
33 contract within 30 days after the contract is executed.

34 (3) If a contract for health studio services requires payment of  
35 two thousand five hundred and one dollars ~~(\$2,501)~~ (\$2,501) or  
36 more, including initiation fees or initial membership fees, by the  
37 person receiving the services or the use of the facility, the person  
38 shall have the right to cancel the contract within 45 days after the  
39 contract is executed.

1 (4) The right of cancellation provided in this subdivision shall  
2 be set out in the membership contract.

3 (5) The rights and remedies under this paragraph are  
4 cumulative to any rights and remedies under other law.

5 (6) A health studio entering into a contract for health studio  
6 services that does not require payment in excess of one thousand  
7 dollars—(~~\$1000~~) (*\$1,000*), including initiation or initial  
8 membership fees and exclusive of interest or finance charges, by  
9 the person receiving the services or the use of the facilities, is not  
10 required to comply with the provisions of this subdivision that  
11 are added by the act adding this paragraph.

12 (e) Upon cancellation, the consumer shall be liable only for  
13 that portion of the total contract payment, including initiation  
14 fees and other charges however denominated, that has been  
15 available for use by the consumer, based upon a pro rata  
16 calculation over the term of the contract. The remaining portion  
17 of the contract payment shall be returned to the consumer by the  
18 health studio.